

**Remarks**

Reconsideration and allowance of this application are respectfully requested. Previously presented claims 1-18 remain pending herein. Claims 1 and 16 are independent. The rejections are respectfully deemed to be obviated in view of the remarks presented herein.

35 U.S.C. § 102(b) – Carlsson

Claims 1-6, 8-11, and 13-18 stand rejected under 35 U.S.C. § 102(b) as being unpatentable over WO 01/87671 of Carlsson (“Carlsson”). In paraphrasing Applicant’s claims, the examiner asserts, *inter alia*, that Carlsson discloses an impact attenuating device with “a front part 9 connected to a frame side member of a vehicle with a wheel that includes two wheels with a pivot function 7,” “an extension device 2 that positions an attenuating part 1 in a transport position,” and that “the extension device is arranged between the front part and attenuating part” (Office Action pages 2-3) (emphasis added).

The rejection under § 102(b) based on Carlsson is respectfully traversed. The disclosure of Carlsson does not anticipate Applicant’s claimed invention.

By way of review, Applicants’ instant claim 1 reads as follows:

1. (Previously presented) An impact attenuating device for a vehicle, comprising a front part with a wheel, for

connection to the vehicle, such that during a collision against the attenuating device forces are transferred to the vehicle, an attenuating part, a rear part, and an extension device arranged between the front part and the attenuating part, the extension device being configured such that in a first position the extension device positions the attenuating part in a transport position, in which the attenuating part is extended away from the front part, and in a second position the extension device positions the attenuating part in an operation position in which the attenuating part is positioned against the front part.

One feature of Applicant's claimed impact attenuating device is the configuration and location of the extension device. As defined by claim 1, the "extension device [is] arranged between the front part and the attenuating part." See, e.g., Applicant's disclosure at original specification page 2, line 22, through page 3, line 6, and in drawing Figures 1 and 8. Both Figures 1 and 8 clearly show "the extension device (6)" as being located between "the front part (3)" and the attenuating part (4).

In the previous Office Action (i.e., the Office Action of March 20, 2008) the examiner stated that Carlsson does not disclose "the location of the extension device" (Office Action page 4, numbered paragraph 6). That is, the examiner previously acknowledged that Carlsson fails to teach an impact attenuating device that has an extension device located between a front part of the attenuating device and the attenuating part (i.e., the attenuating part of Applicant's device is element 4).

Now, however, as indicated in the above-quoted excerpt from the Office Action, the examiner asserts that Carlsson's

"extension device is arranged between the front part and attenuating part." Applicant respectfully disagrees. For at least the following reasons, Carlsson's device is structurally and functionally different from Applicant's claimed invention.

First, Carlsson teaches that a "vehicle (5), usually a lorry, with frame side members (9) is connected to an attenuator (1) comprising an attenuating part (3), wheels (4) and a connecting part (2)" (abstract). See Carlsson's Figures 1 and 2, and the depiction of "frame side members (9)" and the "connecting part (2)." Clearly, Carlsson's "connecting part (2)," which is asserted by the examiner to be "an extension device 2," is not an extension device at all, but rather simply a connection between the truck and the attenuating device.

Second, Carlsson discloses that "two extensible beams (8) are pressed against the frame side members (9) of the vehicle" (page 4, lines 9-10). See the depiction of "extensible beams (8)" in Carlsson's Figure 2. But, Carlsson's "extensible beams (8)" are structurally and functionally different from Applicant's claimed extension device feature. One difference is the location of the extension device. According to Applicant's claimed invention, the extension device is located between a front part of the attenuating device and the attenuating part thereof.

Applicant's claimed extension device feature is "configured such that in a first position the extension device positions the attenuating part in a *transport position*, in which

the attenuating part is *extended away from* the front part, and in a second position the extension device positions the attenuating part in an *operation position* in which the attenuating part is positioned *against* the front part" (emphasis added).

That is, the first position of Applicant's extension device is used when the impact attenuating device is in the transport position. The extension device is then extended in order to facilitate transportation as an ordinary trailer behind the vehicle. The second position of the device is used when the impact attenuating device is in the operation position. The extension device is retracted to its shortened position in order to be able to dock and secure the attenuating device to the front part.

However, as indicated above, Carlsson's device has two extensible beams (8) that *secure the impact attenuating device to the vehicle* in the operation position. The beams are then extended to reach the docking parts of the vehicle. In the transport position, Carlsson's beams are retracted in order to facilitate transportation of the device.

That, however, is simply not Applicant's claimed invention, in which the "extension device [is] arranged between the front part and the attenuating part" of the attenuating device itself.

Since Carlsson does not meet each feature of the claimed invention, Carlsson does not anticipate the invention defined by

Applicant's claim 1. Claims 2-6, 8-11, and 13-15 are allowable because they depend from claim 1, and for the subject matter recited therein.

Applicant's independent claim 16 is similarly allowable. Claim 16 defines an impact attenuating device for a vehicle that includes, *inter alia*, the following feature:

*an extension device arranged between the front part and the attenuating part, the extension device being configured such that in a first position the extension device positions the attenuating part in a transport position in which the attenuating part is extended away from the front part, and in a second position the extension device positions the attenuating part in an operation position in which the attenuating part is positioned against the front part.*

Claims 17 and 18 are allowable because they depend from claim 16, and for the subject matter recited therein.

35 U.S.C. § 103(a) - Carlsson

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Carlsson. Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Carlsson. With regard to claim 7, the examiner asserts that "Carlsson shows an impact attenuating device having a boom 31 arranged to a link arm" and an alternative or additional boom that is positioned with the front part.

The rejections of claims 12 and 7 under § 103(a) based on Carlsson are respectfully traversed. Claims 12 and 7 each depend

from claim 1. Claim 1 is allowable over Carlsson for the reasons outlined above in response to the rejection under § 102(b). Claims 12 and 7 are allowable because they depend from claim 1, and for the subject matter recited therein.

Furthermore, Carlsson's boom 31 is completely different from Applicant's claimed boom feature. Instant claim 6 recites that "the extension device includes a boom, arranged to a link arm, such that a cylinder acting on the link arm moves the attenuating part to the transport position and to the operation position." Applicant's claimed boom feature is element 104; see instant Figure 14. And, rejected claim 7 depends from claim 6. Instant claim 7 recites that "the boom is connected to the front part through a vertical- and horizontal joint such that the attenuating part is movable as a trailer."

See Carlsson's Figure 1. Carlsson's element 31 is not even a boom, let alone Applicant's claimed boom feature. In fact, Carlsson discloses that "[t]he attenuator is also provided with a holder (30) for traffic routing boards (31) (Carlsson page 7, line 7). Carlsson's element 31, therefore, is a traffic routing board, and not even part of an extension device for transforming the attenuating device from operating position into transport position and vice versa.

Accordingly, the disclosure of Carlsson would not have rendered obvious the embodiments of the instant invention defined by either of Applicant's claims 12 and 7.

U.S. Appln. No.: 10/540,109  
Atty. Docket No.: P70670US0

In view of the foregoing, this application is now in condition for allowance. If the examiner believes that an interview might expedite prosecution, the examiner is invited to contact the undersigned.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By:   
Harvey B. Jacobson, Jr.  
Reg. No. 20,851

400 Seventh Street, N. W.  
Washington, D.C. 20004  
Telephone: (202) 638-6666  
Date: December 16, 2008